



DOCKET NO.: 216172US0 REISSUE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE REISSUE APPLICATION OF: : ATTN: APPLICATION BRANCH  
Myriam MELLUL, et al. :  
SERIAL NO.: 09/987,885 :  
FILED: NOVEMBER 16, 2001 :  
FOR: ANHYDROUS AND WATER-RESISTANT  
COSMETIC COMPOSITIONS

**REISSUE DECLARATION**

ASSISTANT COMMISSIONER OF PATENTS  
WASHINGTON, D.C. 20231

SIR:

Now comes Myriam Mellul, Paul Thau, Paul Fehn and Carlos Pinzon, who depose  
and state as follows:

1. That we are the inventors of United States Letters Patent 5,985,297, issued  
November 16, 1999.
2. That we hereby offer to surrender original U.S. Patent 5,985,297.
3. That we, Myriam Mellul, Paul Thau, Paul Fehn and Carlos Pinzon, hereby declare  
that our residence, Post Office addresses and citizenships are as follows: Myriam Mellul,  
French citizen residing at L'Hay-Les-Roses, France, mailing address, 17, Rue De La Bievre,  
FRANCE 94240; Paul Thau, U.S. citizen residing at 181 Dogwood Lane, Berkely Heights,  
New Jersey 07922; Paul Fehn, U.S. citizen residing at 16 Normandy Drive, Westfield, New  
Jersey 07090; and Carlos Pinzon, U.S. citizen residing at 355 Shea Drive, New Milford, NJ  
07646; and that we verily believe that we are the original, first and joint inventors of the  
invention entitled ANHYDROUS AND WATER-RESISTANT COSMETIC

COMPOSITIONS, the specification of which was filed on November 16, 2001, and amended by Preliminary Amendment on November 16, 2001.

4. That we have reviewed and understood the contents of the above-identified specification, including the claims, as amended by the Preliminary Amendment filed on November 16, 2001.

5. That we hereby claim priority benefits under 35 U.S.C. §120 of U.S. Serial No. 09/138,379, filed August 24, 1998, now U.S. 5,985,297; 08/882,298, filed June 25, 1997, now U.S. 5,849,316; and 08/538,046, filed October 2, 1995, now abandoned.

6. That we hereby claim foreign priority from French Application 94-11743, filed September 30, 1994.

7. That we hereby appoint the following attorneys to prosecute this Reissue Application and to transact all business connected herewith: Norman F. Oblon, Reg. No. 24,618; Marvin J. Spivak, Reg. No. 24,913; C. Irvin McClelland, Reg. No. 21,124; Gregory J. Maier, Reg. No. 25,599; Arthur I. Neustadt, Reg. No. 24,854; Richard D. Kelly, Reg. No. 27,757; James D. Hamilton, Reg. No. 28,421; Eckhard H. Kuesters, Reg. No. 28,870; Robert T. Pous, Reg. No. 29,099; Charles L. Gholz, Reg. No. 26,395; Jean-Paul Lavalleye, Reg. No. 31,451; Stephen G. Baxter, Reg. No. 32,884; Richard L. Treanor, Reg. No. 36,379; Steven P. Weihrouch, Reg. No. 32,829; John T. Goolkasian, Reg. No. 26,142; Richard L. Chinn, Reg. No. 34,305; Steven E. Lipman, Reg. No. 30,011; Carl E. Schlier, Reg. No. 34,426; James J. Kulbaski, Reg. No. 34,648; J. Derek Mason, Reg. No. 35,270; Michael E. McCabe, Reg. No. 37,182; and Jeffrey B. McIntyre, Reg. No. 36,867; our attorneys, with full power of substitution and revocation, to prosecute said reissue application and to transact all business in the Patent Office connected therewith.

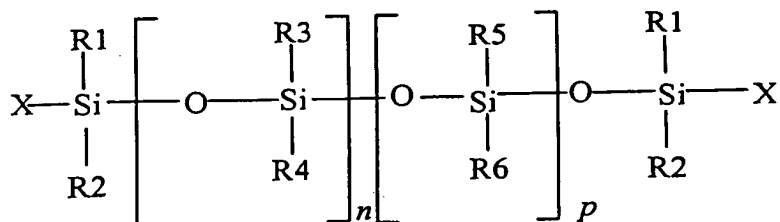
8. That we hereby request that all correspondence be sent to the firm of OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C. whose Post Office Address is: Fourth Floor, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

9. That we verily believe that U.S. Patent 5,985,297 is partly inoperative by reason of patentee claiming less than we had a right to claim in the patent. One error being relied upon as the basis for reissue is described below in paragraph 10.

10. That the claims of U.S. Patent No. 5,985,297 are insufficient in their description of our invention since they omit preferred embodiments.

11. To correct this error, the following claims 18-56 were added by Preliminary Amendment filed November 16, 2001:

--18. A cosmetic composition comprising from 2% to 50% of at least one silicone gum, from 10% to 90% of at least one volatile oil, from 0.5% to 15% of at least one pigment, and from 0 to 30% of at least one filler;, wherein said at least one silicone gum is of the formula:



in which

R1, R2, R5 and R6 each independently represents an alkyl radical having from 1 to 6 carbon atoms:

R3 and R4 each independently represents an alkyl radical having from 1 to 6 carbon atoms or an aryl radical;

X represents an alkyl radical having from 1 to 6 carbon atoms, a hydroxyl radical or a vinyl radical; an

n and p are selected so as to give said silicone gum a viscosity of greater than 100.000 mPa s, and

wherein said composition is anhydrous and water-resistant; and further wherein said composition has cosmetic properties.

19. A composition according to claim 18, wherein said at least one silicone gum is present in an amount which ranges from 4% to 15% by weight relative to the total weight of said composition.

20. A composition according to claim 19, wherein said at least one silicone gum is present in an amount which ranges from 6% to 9% by weight relative to the total weight of said composition.

21. A composition according to claim 18, wherein n and p have values ranging from 0 to 5000.

22. A composition according to claim 21, wherein n and p have values ranging from 0 to 3000.

23. A composition according to claim 18, wherein said at least one silicone gum is a gum wherein (a) R1 to R6 and X are methyl, and p=0, or (b) R1 to R6 and X are methyl, and n=0.

24. A composition according to claim 18, wherein said volatile oil is present in an amount of 30% to 70%.

25. A composition according to claim 18, wherein said volatile oil is a cyclomethicone.

26. A composition according to claim 18; wherein said at least one pigment is present in an amount of 2 to 8% by weight relative to the total weight of the composition.

27. A composition according to claim 18, wherein said at least one pigment is non-coated.

28. A composition according to claim 18, wherein said at least one pigment is titanium dioxide, zinc oxide, zirconium dioxide, black, yellow, red or brown iron oxide, cerium dioxide, an organic pigment or a mixture thereof.

29. A composition according to claim 28, wherein said organic pigment is barium; strontium, calcium or aluminum lakes.

30. A composition according to claim 18; which is in the form of a make-up product or a hair product.

31. A composition according to claim 30, wherein said make-up product is a lipstick, a blusher, an eyeshadow or a foundation and said hair product is a styling make-up gel.

32. A composition according to claim 18 for application to the lips.

33. A composition according to claim 18, comprising a silicone-containing resin.

34. A composition according to claim 18, wherein said at least one filler is mica.

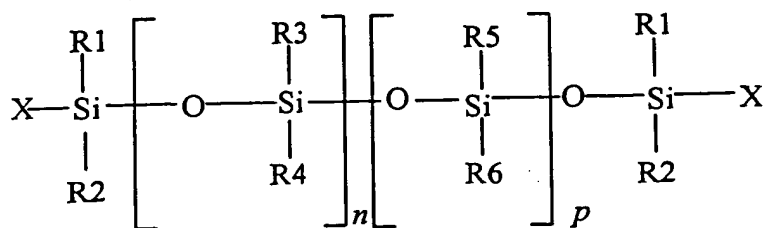
35. A composition according to claim 18, which further comprises at least one gelling agent, vitamin, or sun-screen material, or a plant oil, a synthetic ester, lecithin, a fragrance, or an essential oil.

36. A composition according to claim 18, comprising a gelling agent.

37. A composition according to claim 18, comprising a modified clay.

38. A cosmetic composition comprising from 2% to 50% of at least one silicone gum, from 10% to 90% of at least one volatile component, from 0.5% to 15% of at least one

pigment, and from 0 to 30% of at least one silicone-containing resin, wherein said at least one silicone gum is of the formula:



in which

R1, R2, R5 and R6 each independently represents an alkyl radical having from 1 to 6 carbon atoms;

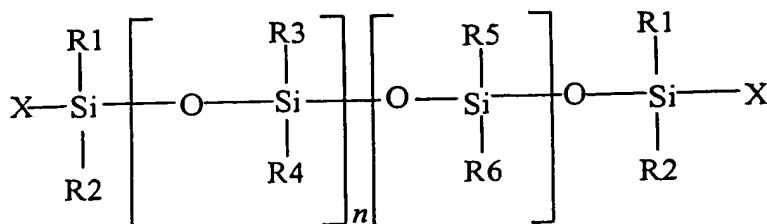
R3 and R4 each independently represents an alkyl radical having from 1 to 6 carbon atoms or an aryl radical;

X represents an alkyl radical having from 1 to 6 carbon atoms, a hydroxyl radical or a vinyl radical; and

n and p are selected so as to give said silicone gum a viscosity of greater than 100,000 mPa s, and

wherein said composition is anhydrous and water-resistant, and further wherein said composition has cosmetic properties.

39. A composition according to claim 38, wherein said at least one silicone gum is present in an amount which ranges from 4% to 15% by weight relative to the total weight of said composition.



40. A composition according to claim 39, wherein said at least one silicone gum is present in an amount which ranges from 6% to 9% by weight relative to the total weight of said composition.

41. A composition according to claim 38, wherein n and p have values ranging from 0 to 5000.

42. A composition according to claim 41; wherein n and p have values ranging from 0 to 3000.

43. A composition according to claim 38, wherein said at least one silicone gum is a gum wherein (a) R1 to R6 and X are methyl, and  $p=0$ , or (b) R1 to R6 and X are methyl, and  $n=0$ .

44. A composition according to claim 38, wherein said volatile component is present in an amount of 30% to 70%.

45. A composition according to claim 38, wherein said volatile component is a cyclomethicone.

46. A composition according to claim 38, wherein said at least one pigment is present in an amount of 2 to 8% by weight relative to the total weight of the composition.

47. A composition according to claim 38, wherein said at least one pigment is non-coated.

48. A composition according to claim 38, wherein said at least one pigment is titanium dioxide, zinc oxide, zirconium dioxide, black, yellow, red or brown iron oxide, cerium dioxide, an organic pigment or a mixture thereof.

49. A composition according to claim 48, wherein said organic pigment is barium, strontium, calcium or aluminum lakes.

50. A composition according to claim 38, which is in the form of a make-up product or a hair product.

51. A composition according to claim 50, wherein said make-up product is a lipstick, a blusher, an eyeshadow or a foundation and said hair product is a styling make-up gel.

52. A composition according to claim 38 for application to the lips.

53. A composition according to claim 38, wherein said at least one filler is mica.

54. A composition according to claim 38, which further comprises at least one gelling agent, vitamin, or sun-screen material, or a plant oil, a synthetic ester, lecithin, a fragrance, or an essential oil.

55. A composition according to claim 38, comprising a gelling agent.

56. A composition according to claim 38, comprising a modified agent.--

These claims address the error noted above in paragraph 10 and are fully supported by the application as originally filed.

12. The errors described above arose without any deceptive intention on the part of Applicants.

13. We acknowledge the duty to disclose to the Office all information known to Applicants to be material to patentability as defined in 37 CFR §1.56.

14. We declare further that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.



15. Further deponent saith not.

X Myriam Mellul  
Myriam Mellul

Date: X June 17th 2002

X \_\_\_\_\_  
Paul Thau

Date: X \_\_\_\_\_

X \_\_\_\_\_  
Paul Fehn

Date: X \_\_\_\_\_

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Carlos Pinzon

Date: X \_\_\_\_\_